

PSJ3
Exhibit 353

From: Julian, Paul <Paul.Julian@McKesson.com>
Sent: Monday, March 05, 2012 2:21 PM
To: Dale Smith; Gray, John
Cc: Durkin David; Moody David S. Jr.; Neu Dave; Couch Ken; Kaufmann Michael C.; Scherr Ted M.
Subject: RE: Fwd: Emailing: HDMA Amicus Brief Cardinal v. Holder DC Cir 4 Mar 12 1540 (00291206).DOC

I am OK with this as well

From: Dale Smith [<mailto:DSmith@hdsmith.com>]
Sent: Sunday, March 04, 2012 10:29 PM
To: Gray, John
Cc: Durkin David; Moody David S. Jr.; Neu Dave; Couch Ken; Kaufmann Michael C.; Julian, Paul; Scherr Ted M.
Subject: Re: Fwd: Emailing: HDMA Amicus Brief Cardinal v. Holder DC Cir 4 Mar 12 1540 (00291206).DOC

I support the filing of this brief.

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From: "Gray, John"
To: "Moody David S. Jr." , Neu Dave , Couch Ken , Julian Paul , Smith Dale , Scherr Ted M. , Kaufmann Michael C. <mike.kaufmann@cardinalhealth.com>
Cc: Durkin David
Date: 03/04/2012 04:54 PM
Subject: Fwd: Emailing: HDMA Amicus Brief Cardinal v. Holder DC Cir 4 Mar 12 1540 (00291206).DOC

Gentlemen:

I apologize for interrupting your weekend. HDMA outside legal counsel was informed today that U.S. Court of Appeals in Washington agreed late Friday to stay the District Court's ruling last Wednesday lifting the Temporary Restraining Order on the DEA's ISO against Cardinal Health. As such, HDMA counsel is recommending that HDMA now file the Amicus Brief prepared after our recent Executive Committee meeting to set forth HDMA's overall industry concerns with the DEA's suspicious ordering program targeted at pharmaceutical wholesalers.

This draft brief was reviewed by most of you early last week. Given HDMA's testimony last week before the

House Energy & Commerce Subcommittee on Manufacturing and Commerce, the issues raised in this brief track with that testimony and include more detail.

I agree with HDMA counsel that this is the best time to file such a brief to let the appellate court understand the extent of our industry's concerns and frustrations in trying to work with the DEA on suspicious ordering monitoring. This may be the last chance to address these issues before an appellate bench in this matter. A favorable decision will establish a useful judicial precedent for all HDMA members to rely upon, if necessary. There were several aspects of last week's ruling that need to be reversed including the appropriate content of an ISO as well as the determination of what constitutes "irreparable harm" for purposes of injunctions in matters such as these.

If HDMA is to file this brief, it must be done no later than tomorrow COB Monday, March 5 since the Appeals Court is operating on an accelerated hearing schedule for this case. Please let me know as soon as possible whether or not you support filing this brief. It is very likely that the Department of Justice will file an opposition to our brief with the Court. There is no guarantee the Court will accept and read our brief, but we will, at least, have filed it for their consideration.

Thank you,

John Gray

Sent from my iPad

Begin forwarded message:

From: David Durkin <ddurkin@ofwlaw.com>

Date: March 4, 2012 5:08:23 PM EST

To: "jgray@hdmanet.org" <jgray@hdmanet.org>, Richard Frank <rfrank@ofwlaw.com>, Arthur Tsien <atsien@ofwlaw.com>

Subject: Emailing: HDMA Amicus Brief Cardinal v. Holder DC Cir 4 Mar 12 1540 (00291206).DOC

This is in a form for review of the substance of the arguments. Obviously the Table of Contents and Table of Authorities will have to be added.

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